



Civil Justice Committee

**February 22, 2006
10:15 AM – 12:00 PM
24 House Office Building**

Committee Action

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Civil Justice Committee

Start Date and Time: Wednesday, February 22, 2006 10:15 am

End Date and Time: Wednesday, February 22, 2006 12:00 pm

Location: 24 HOB

Duration: 1.75 hrs

Consideration of the following bill(s):

HB 329 CS Adult Protective Services by Culp
HB 519 Internet Screening in Public Libraries by Kravitz
HB 567 Notaries Public by Kyle
HB 673 Residential Tenancies by Stargel

NOTICE FINALIZED on 02/10/2006 13:39 by Hay.Tracey

COMMITTEE MEETING REPORT

Civil Justice Committee

2/22/2006 10:15:00AM

Location: 24 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Mark Mahon (Chair)	X		
Dean Cannon	X		
Marti Coley	X		
Carl Domino	X		
Arthenia Joyner	X		
Irving Slosberg	X		
John Stargel	X		
Totals:	7	0	0

Committee meeting was reported out: Wednesday, February 22, 2006 12:29:17PM

COMMITTEE MEETING REPORT

Civil Justice Committee

2/22/2006 10:15:00AM

Location: 24 HOB

Summary:

Civil Justice Committee

Wednesday February 22, 2006 10:15 am

HB 329 CS Favorable With Committee Substitute Yeas: 6 Nays: 0

HB 519 Favorable With Committee Substitute Yeas: 5 Nays: 1

HB 567 Favorable With Committee Substitute Yeas: 6 Nays: 0

HB 673 Favorable With Committee Substitute Yeas: 5 Nays: 1

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COMMITTEE MEETING REPORT

Civil Justice Committee

2/22/2006 10:15:00AM

Location: 24 HOB

HB 329 CS : Adult Protective Services

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino			X		
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Committee meeting was reported out: Wednesday, February 22, 2006 12:29:17PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 329 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

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Council/Committee hearing bill: Civil Justice Committee
Representative(s) Cannon offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (1) and (15) of section 415.102,
Florida Statutes, are amended to read:

415.102 Definitions of terms used in ss. 415.101-415.113.-
-As used in ss. 415.101-415.113, the term:

(1) "Abuse" means any willful act or threatened act by a
relative, caregiver, or household member which ~~that~~ causes or is
likely to cause significant impairment to a vulnerable adult's
physical, mental, or emotional health. Abuse includes acts and
omissions.

(15) "Neglect" means the failure or omission on the part
of the caregiver or vulnerable adult to provide the care,
supervision, and services necessary to maintain the physical and
mental health of the vulnerable adult, including, but not
limited to, food, clothing, medicine, shelter, supervision, and
medical services, which ~~that~~ a prudent person would consider
essential for the well-being of a vulnerable adult. The term
"neglect" also means the failure of a caregiver or vulnerable

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23 adult to make a reasonable effort to protect a vulnerable adult
24 from abuse, neglect, or exploitation by others. "Neglect" is
25 repeated conduct or a single incident of carelessness which
26 produces or could reasonably be expected to result in serious
27 physical or psychological injury or a substantial risk of death.

28 Section 2. Subsection (1) of section 415.1051, Florida
29 Statutes, is amended to read:

30 415.1051 Protective services interventions when capacity
31 to consent is lacking; nonemergencies; emergencies; orders;
32 limitations.--

33 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If
34 the department has reasonable cause to believe that a vulnerable
35 adult or a vulnerable adult in need of services is being abused,
36 neglected, or exploited and is in need of protective services
37 but lacks the capacity to consent to protective services, the
38 department shall petition the court for an order authorizing the
39 provision of protective services.

40 (a) Nonemergency protective services petition.--The
41 petition must state the name, age, and address of the vulnerable
42 adult, allege specific facts sufficient to show that the
43 vulnerable adult is in need of protective services and lacks the
44 capacity to consent to them, and indicate the services needed.

45 (b) Notice.--Notice of the filing of the petition and a
46 copy of the petition must be given to the vulnerable adult, to
47 that person's spouse, guardian, and legal counsel, and, when
48 known, to the adult children or next of kin of the vulnerable
49 adult. Such notice must be given at least 5 days before the
50 hearing.

51 (c) Hearing.--

52 1. The court shall set the case for hearing within 14 days
53 after the filing of the petition. The vulnerable adult and any

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54 person given notice of the filing of the petition have the right
55 to be present at the hearing. The department must make
56 reasonable efforts to ensure the presence of the vulnerable
57 adult at the hearing.

58 2. The vulnerable adult has the right to be represented by
59 legal counsel at the hearing. The court shall appoint legal
60 counsel to represent a vulnerable adult who is without legal
61 representation.

62 3. The court shall determine whether:

63 a. Protective services, including in-home services, are
64 necessary.

65 b. The vulnerable adult lacks the capacity to consent to
66 the provision of such services.

67 (d) Hearing findings.--If at the hearing the court finds
68 by clear and convincing evidence that the vulnerable adult is in
69 need of protective services and lacks the capacity to consent,
70 the court may issue an order authorizing the provision of
71 protective services. If an order for protective services is
72 issued, it must include a statement of the services to be
73 provided and designate an individual or agency to be responsible
74 for performing or obtaining the essential services on behalf of
75 the vulnerable adult or otherwise consenting to protective
76 services on behalf of the vulnerable adult.

77 (e) Continued protective services.--

78 1. No more than 60 days after the date of the order
79 authorizing the provision of protective services, the department
80 shall petition the court to determine whether:

81 a. Protective services will be continued with the consent
82 of the vulnerable adult pursuant to subsection (1);

83 b. Protective services will be continued for the
84 vulnerable adult who lacks capacity;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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85 c. Protective services will be discontinued; or

86 d. A petition for guardianship should be filed pursuant to
87 chapter 744.

88 2. If the court determines that a petition for
89 guardianship should be filed pursuant to chapter 744, the court,
90 for good cause shown, may order continued protective services
91 until it makes a determination regarding capacity.

92 (f) Costs.--The costs of services ordered under this
93 section must be paid by the perpetrator if the perpetrator is
94 financially able to do so; or by third-party reimbursement, if
95 available. If the vulnerable adult is unable to pay for
96 guardianship, application may be made to the public guardian for
97 public guardianship services, if available.

98 Section 3. Paragraphs (a) and (h) of subsection (3) of
99 section 415.107, Florida Statutes, are amended to read:

100 415.107 Confidentiality of reports and records.--

101 (3) Access to all records, excluding the name of the
102 reporter which shall be released only as provided in subsection
103 (6), shall be granted only to the following persons, officials,
104 and agencies:

105 (a) Employees or agents of the department, ~~of~~ the Agency
106 for Health Care Administration, the Agency for Persons with
107 Disabilities, or ~~of~~ the Department of Elderly Affairs who are
108 responsible for carrying out protective investigations, ongoing
109 protective services, or licensure or approval of nursing homes,
110 assisted living facilities, adult day care centers, adult
111 family-care homes, home care for the elderly, hospices, or other
112 facilities used for the placement of vulnerable adults.

113 (h) Any appropriate official of the department, ~~of~~ the
114 Agency for Health Care Administration, the Agency for Persons

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115 with Disabilities, or ~~of~~ the Department of Elderly Affairs who
116 is responsible for:

117 1. Administration or supervision of the programs for the
118 prevention, investigation, or treatment of abuse, neglect, or
119 exploitation of vulnerable adults when carrying out an official
120 function; or

121 2. Taking appropriate administrative action concerning an
122 employee alleged to have perpetrated abuse, neglect, or
123 exploitation of a vulnerable adult in an institution.

124 Section 4. This act shall take effect upon becoming a law.
125

126 ===== T I T L E A M E N D M E N T =====

127 Remove the entire title and insert:

128 An act relating to adult protective services; amending s.
129 415.102, F.S.; redefining the term "abuse" to include actions by
130 a relative or a household member which are likely to harm a
131 vulnerable adult; redefining the term "neglect" to include
132 actions of a vulnerable adult against himself or herself;
133 amending s. 415.1051, F.S.; providing for the Department of
134 Children and Family Services to petition the court for an order
135 authorizing the provision of protective services for a
136 vulnerable adult in need of services; amending s. 415.107, F.S.;
137 authorizing the Agency for Persons with Disabilities to have
138 access to certain otherwise confidential records and reports;
139 providing an effective date.

COMMITTEE MEETING REPORT

Civil Justice Committee

2/22/2006 10:15:00AM

Location: 24 HOB

HB 519 : Internet Screening in Public Libraries

<input checked="" type="checkbox"/> Favorable With Committee Substitute					
	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner		X			
Irving Slosberg			X		
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 5		Total Nays: 1			

Appearances:

Internet Screening in Public Libraries

Ruth O'Donnell - Opponent

Florida Library Association, Executive Dir.

3509 Trillinn Ct.

Tallahassee FL 32312

Phone: 850-668-6911

Committee meeting was reported out: Wednesday, February 22, 2006 12:29:17PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 519**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

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Council/Committee hearing bill: Civil Justice Committee
Representative Kravitz offered the following:

Amendment (with title amendments)

Remove line(s) 87-143, and insert:

(3) The Division of Library and Information Services
within the Department of State shall adopt rules pursuant to ss.
120.536(1) and 120.54 which require the head of each
administrative unit to annually attest in writing, under penalty
of perjury, that all public library locations for which the
administrative unit is responsible are in compliance with
subsection (2) as a condition of the receipt of any state funds
distributed under this chapter.

(4) This section

===== T I T L E A M E N D M E N T =====

Remove line(s) 10-17 and insert:
its Internet safety policy; directing the Division of Library
and Information Services within the Department of State to adopt
rules requiring a written attestation of compliance as a
condition of state funding; providing a cause of action is not
authorized for a violation by a public library; providing

COMMITTEE MEETING REPORT

Civil Justice Committee

2/22/2006 10:15:00AM

Location: 24 HOB

HB 567 : Notaries Public

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino			X		
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Committee meeting was reported out: Wednesday, February 22, 2006 12:29:17PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 0567**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

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Council/Committee hearing bill: Civil Justice Committee
Representative(s) Kyle offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (2) of section 117.05, Florida
Statutes, is amended to read:

117.05 Use of notary commission; unlawful use; notary fee;
seal; duties; employer liability; name change; advertising;
photocopies; penalties.--

(2)(a) The fee of a notary public may not exceed \$10 per
signature notarized for any one notarial act, except as provided
in s. 117.045.

(b) A notary public may not charge a fee:

1. For witnessing an absentee ballot in an election, and
must witness such a ballot upon the request of an elector,
provided the notarial act is in accordance with the provisions
of this chapter.

2. For any notarial act performed for a United States
military veteran or a firefighter or law enforcement officer
applying for a pension, allotment, allowance, compensation,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

insurance policy, or other benefit resulting from public service.

Section 2. Section 117.071, Florida Statutes, is created to read:

117.071 Use of journal for notarial acts.--

(1) Each notarial act shall be recorded by the notary public sequentially in a journal in accordance with the provisions of this chapter. A notary who is either an attorney at law licensed to practice in this state or who is employed by an attorney at law licensed to practice in this state is exempt from the requirement to keep a journal of notarial acts.

(a) For each notarial act, the notary public shall record in the journal at the time of notarization:

1. The date and time of the notarial act.

2. The type of notarial act.

3. The title or name of the document or transaction.

4. The signer's printed name and signature.

5. The signer's complete address, telephone number, and specific type of identification presented by the signer.

(b) The notary public must retain the journal for safekeeping for at least 5 years after the date of the last entry.

(c) If the notary public journal is stolen, lost, misplaced, destroyed, or rendered unusable within the time period specified in paragraph (b), the notary public must immediately notify the Executive Office of the Governor in writing of the circumstances of the incident.

(2) Failure of a notary public to comply with the requirements of this section may constitute grounds for suspension or nonrenewal of the notary public commission by the Executive Office of the Governor.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Section 3. This act shall take effect January 1, 2007.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to notaries public; amending s. 117.05, F.S.;
authorizing notaries public to charge a fee per notarized
signature; requiring notaries public to provide services without
charge to certain persons; creating s. 117.071, F.S.; requiring
notaries public to maintain a journal and to record notarial
acts; providing an exception; providing requirements for journal
entries; requiring retention of the journal for a specified
period after the last entry and requiring certain notice upon
failure to do so; providing that failure to comply with such
requirements may constitute grounds for suspension or nonrenewal
of the notary public commission by the Executive Office of the
Governor; providing an effective date.

COMMITTEE MEETING REPORT

Civil Justice Committee

2/22/2006 10:15:00AM

Location: 24 HOB

HB 673 : Residential Tenancies

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley			X		
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg		X			
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 5		Total Nays: 1			

Appearances:

Residential Tenancies

Jodi L. Chase (Lobbyist) - Proponent

Florida Apartment Association

1566 Village Square Blvd., Suite 2

Tallahassee FL 32302

Phone: 850-385-9880

Residential Tenancies

Alice Vickers (Lobbyist) - Opponent

Florida Legal Services

2425 Torreya

Tallahassee FL 32303

Phone: 850-385-7900

Committee meeting was reported out: Wednesday, February 22, 2006 12:29:17PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 0673

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)
ADOPTED AS AMENDED — (Y/N)
ADOPTED W/O OBJECTION — (Y/N)
FAILED TO ADOPT — (Y/N)
WITHDRAWN — (Y/N)
OTHER —

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Council/Committee hearing bill: Civil Justice Committee
Representative Stargel offered the following:

Amendment (with title amendment)

Remove lines 31-69 and insert:
the rent as it comes due; or-

(d) If provided for in the rental agreement, recover liquidated damages upon the breach or charge the tenant a fee for early termination of the rental agreement upon the tenant's giving the landlord notice as provided for in the rental agreement. The landlord shall be entitled to both liquidated damages and an early termination fee, provided the combined total for liquidated damages and the early termination fee does not exceed an amount equal to 2 months' rent. The landlord shall treat such a rental agreement as terminated and charge the tenant liquidated damages or the early termination fee as specified in the rental agreement. In such event, the remedies set forth in paragraphs (a), (b), and (c) are not available to the landlord. This paragraph shall not apply when the breach is failure to give notice at the end of the rental agreement as provided in s. 83.575.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

22 (2) The landlord may charge the tenant for any unpaid
23 rent, other charges due under the rental agreement through the
24 end of the month in which the landlord retakes possession of the
25 dwelling unit, and any rental concessions that the tenant has
26 received. For purposes of this subsection, the term "rental
27 concessions" means any amount by which all or a portion of the
28 base rent, options, or fees is reduced in consideration for the
29 tenant's entering into the rental agreement.

30 (3)(2) If the landlord retakes possession of the dwelling
31 unit for the account of the tenant pursuant to paragraph (1)(b),
32 the landlord has a duty to exercise good faith in attempting to
33 relet the premises, and any rent ~~rentals~~ received by the
34 landlord as a result of the reletting shall be deducted from the
35 balance of rent due from the tenant. For purposes of this
36 section, "good faith in attempting to relet the premises" means
37 that the landlord shall use at least the same efforts to relet
38 the premises as were used in the initial rental or at least the
39 same efforts as the landlord uses in attempting to rent ~~lease~~
40 other similar rental units but does not require the landlord to
41 give a preference in leasing the premises over other vacant
42 dwelling units that the landlord owns or has the responsibility
43 to rent.

44 Section 2. This act shall take effect upon becoming a law
45 and shall apply to any rental agreement entered into prior to
46 the effective date of this act in which the parties agreed to
47 the remedies authorized in this act.

48
49 ===== T I T L E A M E N D M E N T =====

50 Remove line 10 and insert:
51 application; providing an effective date.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

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HB 0673 Amendment 1